

**THE REPORT OF THE MEMBERS OF THE STATE BOARD OF HEALTH  
ON THE PROPOSAL FOR A CHANGE IN SCOPE OF PRACTICE BY DENTAL HYGIENISTS  
(September 26, 2005)**

**The Recommendations of the Members of the Board's Credentialing Review Committee on the Proposal**

**Comments by the Chairperson of the Dental Hygienists' Technical Review Committee**

Chairperson Edward Discoe, M.D., began the meeting by describing the credentialing review process and the format of the five meetings of the Dental Hygienists' Technical Review Committee. Dr. Discoe stated that the applicant group educated the committee members regarding the condition of dental care nationally, the disparity in dental services between rural and urban areas of Nebraska, and the disparity in access to care between the middle class and the poor in our state. Dr. Discoe stated that the proposal described the significance of preventive care in heading off serious periodontal disease. Dr. Discoe commented that the review was controversial, with the dental hygienists arguing that current statutory restrictions on their practice pertinent to oversight by dentists hampers their ability to respond to the disparities noted above. Dr. Discoe stated that representatives of the Nebraska Dental Association felt that the proposal was not the appropriate way to improve quality of care in Nebraska, and identified alternative ways of addressing access to care problems. Dr. Discoe concluded his remarks by stating that the committee members voted against the proposal on each of the four criteria.

**Testimony from Interested Parties**

Chairperson Discoe asked representatives of the applicant group whether they wished to make comments to the Board members. Jane Broekemeier, R.D.H., the applicant group representative on the committee, came forward to present comments on the issues from the dental hygienists' viewpoint. Ms. Broekemeier commented that the greatest difference between her group and the Dental Association was over the issue of supervision of dental hygiene services pertinent to outreach to underserved populations. Ms. Broekemeier indicated that otherwise the two sides are pretty much in agreement, and that the differences between the two professions on issues have been overstated. Pertinent to opponent concerns about independent practice by dental hygienists, Ms. Broekemeier commented that dental hygienists are ethically obligated to refer patients to dentists for follow-up care in any case. She added that dental hygienists would not stand to make significant dollars under this proposal, and that their motives are entirely selfless in this regard. Regarding issues of reduced supervision, Ms. Broekemeier indicated that in states that have had reduced supervision there has been no evidence of harm done from reduced or unsupervised practice. Ms. Broekemeier then showed pictures of children from underserved populations with dental problems, and asked, should we allow this to continue? She noted that these people do not seek care until there is a need to go to the emergency room. Ms. Broekemeier concluded her comments by stating that her group was very disappointed by the outcome of the committee findings, but hopes that the Board of Health members will perceive the issues differently than did the technical committee members and will approve the proposal.

Dr. Wills asked Ms. Broekemeier how this proposal would jibe with the overall work and services provided by dentists. Ms. Broekemeier responded that the proposal would ease the workload of dentists, and dentists would see people that they would not see otherwise, resulting in better outcomes for those patients.

Dr. Westerman commented that he appreciated the applicant groups' disappointment regarding the decision of the committee. Ms. Broekemeier stated that her group felt that there was not sufficient discussion during the technical committee phase of the review, and expressed disappointment that the committee members did not propose any ideas for amending the proposal.

Dr. Spry asked the applicants why they feel that there is a need for a statutory change in order for them to provide outreach services. Ms. Broekemeier responded that the current statutory provisions on supervision create a situation in which the cooperation of the dentist is necessary in order for such outreach services to occur. Dr. Spry then asked, should we instead be placing greater emphasis on providing outreach services in the education and training of dentists? Ms. Broekemeier responded by stating that she would like to go into schools to serve underprivileged students in those contexts, but supervising dentists will not accept non-payment for services. Dr. Spry commented that community health services require a supervising physician and a dentist, and asked whether this would meet those needs. Ms. Broekemeier responded by stating that the supervising physicians and dentists are volunteers, and that the dentists might not take referrals without pay. Dr. Spry asked about Ms. Broekemeier's comment that dental hygienists would be ethically obligated to refer patients to dentists for follow-up care, and asked her what other dentist that might be if not a supervising dentist. Ms. Broekemeier responded that any dentist could be used for referral purposes, but that the problem is that so many dentists are concerned with maintaining "the bottom line." Dr. Spry then commented that perhaps the best way to deal with these access-to-care problems is to utilize the community health center concept to employ both dentists and dental hygienists in an effort to address these needs.

Ms. Broekemeier then introduced Darlene Carritt, R.D.H., from the UNL College of Dentistry to comment on dental hygiene education. Ms. Carritt compared the education of dental hygienists and registered nurses by stating that the both are similar in the amount of education received, and that both RNs and dental hygienists have two, three, and four year programs. Ms. Carritt stated that dental hygienists receive approximately two-thirds of the pharmacology education of dental students, and that this provides a foundation for the provisions in the proposal pertinent to the limited ability to write prescriptions. This concluded the comments by the applicant group representatives.

Dr. Discoe then asked whether there were representatives of the Nebraska Dental Association who wished to come forward to make comments. Dr. Jessica Meeske, D.D.S., a board certified pediatric dentist, came forward to present comments. Dr. Meeske stated that her practice includes about 7,000 patients, of which 50% are on Medicaid or are low-income children. Dr. Meeske stated that she uses dental hygienists in her practice inside and outside of the office. She stated that providing services to underserved populations is costly to her practice, but that she chooses to eat the cost so that the patients can receive care.

Pertinent to criterion one, Dr. Meeske stated that the majority of Nebraskans have access to dental care, but that there is a significant underserved population consisting of minorities, the very young, the very old, and the uninsured who don't have access to such care.

Pertinent to criterion two, Dr. Meeske stated that she believes that the proposal would create a new danger. She stated that there is concern that parents would perceive that if the child sees a dental hygienist in the context defined in the proposal, they would wrongly conclude that they had seen "the dentist". Additionally, Dr. Meeske commented regarding the issue of taking of biopsies, and asked who would have the ultimate responsibility for the biopsies under the terms of the proposal.

Pertinent to criterion three, Dr. Meeske stated that the proposal would be likely to increase utilization and billings, and that dental hygienists would bill Medicaid for office visits and prophylaxis.

Pertinent to criteria four, Dr. Meeske stated that mandated fluoridation is the best way to address the problems identified. She also commented that the Medicaid system needs to be improved, and that currently practitioners receive only 40 cents on the dollar from Medicaid. Dr. Meeske added that there are underserved areas in our state, and that dentists are doing special things to try to meet these needs.

Dr. Wills asked Dr. Meeske whether her practice is the exception or the rule in Nebraska. Dr. Meeske responded that it is the exception, and added that she subsidizes her hygienists without receiving any pay. Dr. Wills then commented that the risk factor for what dental hygienists do is less than for what dentists do, and given this, asked what the problem was with what they are asking for? Dr. Spry asked whether there are access problems in Nebraska vis-à-vis the services of dentists. Dr. Meeske responded by stating that there are problems with mal-distribution of dentists and a shortage of dentists.

Dr. Westerman then asked the applicant group to comment on the issue of independent practice. Jane Broekemeier responded on behalf of the applicant group that supervision issues and the issue of independent practice are different things, and that this proposal is not about independent practice. Larry Ruth, lobbyist for the Nebraska Dental Association, commented that the proposal in effect does ask for independent practice, and read an excerpt from the statute (Section 72-193-17) to show that the impact of the proposal would be independent practice in the specific contexts defined by the proposal.

Dr. Wills then asked whether dental hygienists would be Medicaid providers under the terms of the proposal. Larry Ruth commented that Medicaid at this point does not approve them as providers, but that approval for dental hygienists to be Medicaid providers is possible under the terms of the proposal.

### **The Formulation of Committee Recommendations on the Proposal**

At this juncture in the review, the Board members indicated that they were ready to begin taking up the four criteria of the review program.

The Board members then took up each of the four criteria, beginning with criterion one, which asks whether there is significant harm or significant potential for harm to the public under the current practice situation of the profession under review. Dr. Wills moved and Dr. Spry seconded that there is harm to the public in the current practice of dental hygiene. Voting aye was Wills. Voting nay were Spry, Discoe, and Westerman. There were no abstentions. The motion did not pass. By this vote the proposal was determined to have failed to satisfy the first criterion. Dr. Discoe commented that he did not feel that there is a risk of harm under the current practice situation, but indicated that dentists should be encouraged to move toward the hygienists' views pertinent to the need for outreach services to underserved populations. Dr. Spry and Dr. Westerman both commented that they did not perceive the current situation as posing harm to the public. Dr. Wills commented that the harm is the shortage of dentists, especially in the western part of the state.

Dr. Spry moved and Dr. Westerman seconded that the proposal does not satisfy criterion two, which states that the proposed change in scope of practice does not create a significant new danger to the health, safety or welfare of the public. Voting aye were Wills, Spry, Westerman, and Discoe. There were no nay votes or abstentions. By this vote the proposal was determined to have failed to satisfy the second criterion. Dr. Discoe expressed concern that this proposal would create a two-tiered standard of care, and that the public would assume that they were receiving total dental care when in

fact they would not be.

Dr. Wills moved and Dr. Spry seconded that enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public. Voting aye were Wills, Spry, and Westerman. Voting nay was Discoe. There were no abstentions. By this vote the proposal was determined to have satisfied the third criterion. Dr. Wills stated that the proposal would help to address the problem of limited access to dental care in underserved areas of the state. Dr. Spry commented that he voted to support the proposal on this criterion because of its potential for improving public education on dental health care issues.

Dr. Spry moved and Dr. Discoe seconded that the proposal does not satisfy the fourth criterion, which is that the public cannot be effectively protected by other means in a more cost-effective manner. Voting nay was Dr. Wills. Voting aye were Spry, Westerman, and Discoe. There were no abstentions. By this vote the proposal was determined to have failed to satisfy the fourth criterion.

**By these four votes the Board members decided to recommend to the members of the full Board that they vote against approval of the dental hygienists' proposal.**

Dr. Westerman then suggested that the ancillary recommendations listed in the Report of Technical Committee Recommendations located on page seven of that document be recommended for approval by the full Board of Health. This idea was approved by acclamation.

### **The Recommendations of the Full Board of Health on the Proposal**

#### **Comments by the Chairperson of the Credentialing Review Committee**

Dr. Edward Discoe, chairperson of the Credentialing Review Committee, informed the Board members that the technical committee that reviewed this proposal recommended against the proposal by voting against it on each of the votes taken on the four criteria. Dr. Discoe went on to state that the members of the Board's committee heard testimony from representatives of both the Nebraska Dental Association and the Dental Hygienists' Association during their review of the proposal. Dr. Discoe informed the board members that the members of the Board's committee also recommended against the proposal.

Dr. Jim Schiefen then asked if there were representatives of interested parties present who would like to come forward to testify on the proposal.

#### **Comments by Interested Parties**

Jane Broekemeier, R.D.H., came forward to testify on behalf of the applicant group. Ms. Broekemeier stated that the proposal is intended to create a new way to respond to the dental care needs of underserved populations of our state. Ms. Broekemeier commented that the proposal seeks to respond to these needs by creating outreach services to these populations, and that this represents an approach that is significantly different from the office settings so typical of current dental care services in our state. Ms. Broekemeier said that such an approach is necessary to meet the needs of disadvantaged and minority populations because economic, cultural, and language barriers frequently prevent them from seeking out dental care services provided in traditional office settings. Ms. Broekemeier stated that the proposal is not about independent practice for dental hygienists, and that she hoped that the Board members would look at the proposal with an open mind.

Dr. Robert Sandstrom, Ph.D., P.T., asked Ms. Broekemeier about the provision in the proposal that

allows dental hygienists to do brush biopsies. Dr. Sandstrom asked how this would be done, and what role the dental hygienist would play in this diagnostic process. Ms. Broekemeier stated that under the terms of the proposal, qualified dental hygienists would apply a special type of brush to a lesion in order to pick up a cell sample from a patient with a suspicious lesion, and then send the cell sample to a laboratory for analysis. Dr. Sandstrom asked Ms. Broekemeier who would interpret the results. Ms. Broekemeier responded that the results would be interpreted by either a dentist or a physician. Dr. Schiefen then commented that in such a situation it would be more advisable for a dental hygienist to refer any suspicious lesions to either a dentist or a physician right away rather than spending valuable time trying to perform biopsies themselves.

Dr. Kent Forney, D.V.M., asked Ms. Broekemeier whether this issue is just another turf war. Ms. Broekemeier responded that it is not about turf, but about finding a way to meet the needs of poor and other underserved populations in our state. Dr. Clint Schafer, D.P.M., asked whether this proposal could open the door for free standing dental hygiene clinics, and thereby, in a defacto manner, create independent practice for dental hygienists. Ms. Broekemeier responded that such a scenario is not the intent of the applicant group, and that the applicants are not trying to use this issue to establish independent practice, or in any way advance themselves economically. Dr. Schafer responded to Ms. Broekemeier's comments by stating that no one provides health care services for free, and that applicant assertions that monetary gain has nothing to do with their proposal are hard to take seriously. Ms. Broekemeier responded by stating that dental hygienists could provide this care for minimum cost, and would do so not on a daily basis, but rather, they would provide this care by working a few days every month. This approach would enable them to continue their current office employment while providing the outreach services as secondary employment.

Dr. Leslie Spry, M.D., commented that the approach that holds the most promise of meeting the needs of underserved populations is one that would utilize community health centers to provide the care in question. Dr. Spry stated that this approach would employ the services of both dentists and dental hygienists in a cooperative effort to address the dental care needs of underserved populations.

Dr. Spry then commented that the proposal under review does not clarify referral patterns, and creates uncertainty regarding how follow-up care would occur. Dr. Discoe expressed concern that the proposal would fragment dental care services in Nebraska, and potentially could create a situation wherein there are two standards of care, one for the underserved, and another for the rest of the population.

Dr. Sandstrom asked Ms. Broekemeier what is keeping dental hygienists from providing outreach services under the current practice situation. Ms. Broekemeier responded by stating that the current practice situation requires that the dental hygienists receive the approval of a supervising dentist before they are allowed to provide outreach services to underserved populations, and that this situation usually prevents the dental hygienist from providing outreach services. She commented that dentists typically are reluctant to allow their employees to provide this kind of care because it could adversely impact their income.

There being no additional questions for the applicant group representative, Dr. Schiefen asked if any other interested parties wished to testify on the proposal. Dr. Jessica Meeske, D.D.S., came forward to testify on behalf of the Nebraska Dental Association. Dr. Meeske informed the Board members that her office and employees provide outreach services to underserved populations now, and that this shows that this kind of service can be provided under the current practice situation. Dr. Meeske then identified additional ways that the dental care needs of underserved populations could be met, including mandatory water fluoridation and the "Mission of Mercy" program to be initiated by the Nebraska Dental Association. Other options are incentive programs to attract young dentists to underserved areas to practice, such as loan repayment and loan forgiveness programs. Dr. Meeske

also stated that the idea of a grant program to fund outreach services involving teams of cooperating dentists and dental hygienists is one that should be given serious consideration.

Dr. Meeske commented on the current applicant proposal by stating that it would, in effect, attempt to provide outreach services without the leadership and professional skills that only a dentist can provide. Dr. Meeske commented that outreach services provided without the diagnostic and interpretive skills of a dentist would provide patients with substandard care. She added that sealants administered to a patient without the benefit of a diagnosis by a dentist are much less likely to succeed than sealants applied to patients who have received the benefit of a diagnosis from a dentist indicating whether or not their oral condition would benefit from the application of a sealant. Dr. Meeske stated that the current proposal would have the effect of creating a dual standard of care, one for the poor, and another for those who can afford dental care. Dr. Meeske stated that the proposal represents the first step towards independent practice for dental hygienists, and that this eventuality would not be good for dental care in our state given that dental hygienists lack the education to take charge of the total dental care for patients. Dr. Meeske also expressed concern about the impact of the proposal on reimbursement for dental care, stating that it could lead to double billing of services to Medicaid.

After Dr. Meeske completed her testimony, Dr. Sandstrom expressed concern about the fact that few dentists are active in providing outreach services to underserved populations. Dr. Sandstrom added that it is clear that there is a great need for dentists to commit themselves to doing more to help the underserved, and to work together with other dental professionals to get it done. Dr. Meeske responded by stating that part of the problem is that dental education does not provide students with an adequate background in public service. She added that dental education also does not emphasize the idea of cooperation with other dental health professionals to address public health issues. She acknowledged that these are areas where the dental schools need to make significant improvement.

Dr. Forney asked Dr. Meeske how a better job could be done in the area of recruiting dentists for underserved areas. Dr. Meeske responded that the Nebraska Dental Association is currently seeking grant money for this purpose. Dr. Forney noted that the GPA at the UN-L dental college is one of the highest in the nation, and that perhaps it would be a good idea to try to recruit dentists with a lower GPA to serve in underserved areas of the state. Dr. Meeske responded that the Nebraska Dental Association is attempting to recruit in a four-state region, including Nebraska, just the kind of students Dr. Forney was recommending.

There being no further discussion, Dr. Schiefen asked the Board members whether they were ready to take action on the recommendations on the applicants' proposal presented to the Board from the Credentialing Review Committee. The Board members indicated that they were ready to take this action.

### **Formulation of Recommendations by the Full Board of Health on the Dental Hygienists' Proposal**

The Board members then took a roll call vote on the Board's committee recommendations on the proposal. Voting aye were Augustine, Discoe, Forney, Heiden, Lazure, Reamer, Salansky, Sandstrom, Schafer, Schiefen, Spry, Westerman, and Wills. Pam List abstained from voting. **By this vote the Board members recommended to approve the committee report on the proposal which had been to deny approval of the applicants' proposal.**